

## **HIV / AIDS**

### **Press Accounts - Archive** **The AIDS Secret Worth Keeping** **November 15, 1987**

#### **The New York Times**

Testing to help curb the AIDS epidemic can be either voluntary or compulsory, but that's a choice only in theory. A compulsory program would drive underground the intravenous drug abusers and gay men who most need to be reached. No wonder public health officials overwhelmingly prefer voluntary tests.

But many potential victims will refuse voluntary testing without safeguards. That's why it becomes steadily more imperative that Congress overcome its hesitancy and guarantee test confidentiality and protection against discrimination.

Anyone found to be infected with the AIDS virus has a compelling interest in keeping that information private. Disclosure may lead to the loss of friends, job, insurance or apartment. Guaranteeing an absolute right to privacy might overcome the resulting deterrent to testing. But an absolute right collides with the right of others to know the test results, like sexual partners, hospital staff and public health officials. Some have declined to inform their sexual partners and have forbidden their doctor to do so. Doctors are bound by law and ethics to respect a patient's confidentiality, but courts have held they have a higher duty to warn those whom a patient may specifically endanger. A bill on AIDS testing proposed by Representative Henry Waxman of California would allow physicians to inform a sexual partner, if the patient refuses to do so himself, without incurring state penalties.

Another plausible exception to total confidentiality is for the contact tracing systems run by some state health authorities. Tracing and treating a patient's partners has proved effective in controlling syphilis and venereal disease. With the AIDS virus, there is little treatment yet to offer. Still, informing people that they are infected may save them from infecting others. In Colorado, with a vigorous tracing system, some 27 percent of partners agreeing to be tested were found to have the virus. Although half already knew it, that can in some states be an efficient method of reaching the infected. Tracing programs have long operated with near-perfect confidentiality.

Still, some breaches may be inevitable, as when a patient tells partners who tell others. Hence there's a strong need for laws to deter discrimination against people with AIDS.

The Waxman bill sets up the necessary legal framework in which public health policy and AIDS testing can be most effective. It would enforce confidentiality with strict fines, allowing exceptions for a physician to warn partners and to report cases if required by state law. The bill would also require all centers receiving Federal funds to make anonymous testing available, and bar discrimination against the infected, whether in jobs, housing or government services.

Some Republican members of Mr. Waxman's committee deride these non-discrimination provisions as a gay rights bill. No, it's a public health bill, intended to induce the one million Americans already infected to be tested and counseled before they infect others. The Administration opposes the bill, saying the states' laws suffice. But in many states the protections are too weak and will take years to remedy.

Uniform Federal protections offer the best chance of bringing AIDS under control. Promoting voluntary testing is the way to do so without trampling on individual rights and dignities. It's also the only way that can work.

